REMARKS

The Examiner issued the Office Action dated November 4, 2003 responsive to the Preliminary Amendment filed September 9, 2003, which was filed pursuant to a Request for Continued Examination June 9, 2003. Because the Examiner has accepted both the Request for Continued Examination and the Preliminary Amendment and has responded with an Office Action, this patent application is pending, and claims 1-72 are pending.

Claims 1-33, 36-37, 39, 41, 43-46, 49-50, and 52-72 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,256,737 to Bianco et al. in view of U.S. Published Patent Application No. 2001/0011247 A1 to O'Flaherty et al. Claims 35 and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,256,737 to Bianco et al. in view of U.S. Published Patent Application No. 2001/0011247 A1 to O'Flaherty et al. and U.S. Patent No. 6,029,195 to Herz. Claims 38 and 51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,256,737 to Bianco et al. in view of U.S. Published Patent Application No. 2001/0011247 A1 to O'Flaherty et al. and U.S. Patent No. 6,233,618 to Shannon. Claim 40 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,256,737 to Bianco et al. in view of U.S. Published Patent Application No. 2001/0011247 A1 to O'Flaherty et al. and U.S. Patent No. 6,011,858 to Stock et al. Claims 42 and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,256,737 to Bianco et al. in view of U.S. Published Patent Application No. 2001/0011247 A1 to O'Flaherty et al. and U.S. Patent No. 6,119,096 to Mann et al.

The Examiner rejected claims 35, 38, 48, and 51 over Bianco in view of O'Flaherty and either Herz or Shannon. The Examiner identified both Herz and Shannon as having U.S. Patent No. 6,233,618. In the Office Action dated May 22, 2002, the Examiner identified Herz as U.S. Patent No. 6,029,195. The Office Action is interpreted as intending to use U.S. Patent No. 6,029,195 as the reference entitled Herz in rejecting claims 35 and 48.

Although the Examiner indicated claim 34 as rejected under 35 U.S.C. § 103(a), the Examiner did not identify any references over which claim 34 is considered unpatentable. This Response treats claim 34 as standing rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,256,737 to Bianco et al. in view of U.S. Published Patent Application No. 2001/0011247 A1 to O'Flaherty et al. However, the Applicant notes that if the Examiner rejects claim 34 in the next Office Action, it should be viewed as a new grounds for rejection, and the Examiner should not make the next Office Action final.

Reconsideration is requested. No new matter is added. Claim 63 is amended to correct a typographical error. The rejections are traversed. Claims 1-72 remain in the case for consideration.

REJECTIONS UNDER 35 U.S.C. § 103(a)

Referring to claim 1, the invention is directed toward a method for processing electronic transactions. A user registers with an electronic identicator a registration biometric sample. The user formulates a rule module in a clearinghouse. The rule includes at least one pattern data and at least one execution command. The user is then identified by comparing a bid biometric sample against the biometric samples registered in the electronic identicator. Assuming the user is identified, a rule module of the user is invoked, to execute at least one electronic transmission.

Referring to claim 20, the invention is a system for processing electronic transactions. A biometric input apparatus is used, for providing a registration biometric sample to an electronic identicator during registration, and for providing a bid biometric sample to the electronic identicator when the user wants to execute an electronic transmission. A clearinghouse stores rule modules, combining pattern data with execution commands. An execution module invokes an execution command from a rule module, responsive to the electronic identicator indicating whether the user is successfully identified.

Referring to claim 25, the invention is a method for processing electronic transactions. Two users, a primary and a subordinate, each register biometric samples with an electronic identicator. The users also formulate rule modules, associating pattern data with execution commands. The subordinated user is then identified by the electronic identicator. Assuming the subordinated user is successfully identified, the subordinated user's rule modules are checked to see if they are subordinated to any of the primary user's rule modules. Assuming that one of the subordinated user's rule modules are subordinated to one of the primary user's rule modules, the primary user's rule modules are invoked, thereby executing an electronic transmission.

Referring to claim 54, the invention is a method for processing electronic transactions. A biometric sample is registered. A user-customizable rule module is formed, including at least one pattern data of the user and at least one execution command of the user. A bid biometric sample is compared with the registered biometric sample. If the comparison indicates a successful match, the rule module is invoked.

Referring to claim 63, the invention is directed toward a method for processing electronic transactions. A primary user registers a primary registration biometric sample. A secondary user registers a secondary registration biometric sample. A primary user-customizable rule module, customized to the primary user, is formed, including at least one primary pattern data of the user and at least one primary execution command of the primary user. A secondary user-customizable rule module, customized to the secondary user, is formed, including at least one secondary pattern data of the user and at least one secondary execution command of the secondary user. The secondary rule module is subordinated to the primary rule module. A bid biometric sample taken from the secondary user is compared with at least one previously registered biometric sample. The secondary rule module is determined to be subordinated to the primary rule module. Upon a successful match, the primary rule module is invoked.

Referring to claim 64, the invention is directed toward a device for processing electronic transactions. A biometric input apparatus can provide a bid or registration biometric sample of a user. An electronic rule module clearinghouse can have at least one user-customizable rule module, including at least one pattern data of the user and at least one execution command of the user. An electronic identicator can compare a registration biometric sample with a bid biometric sample. A command execution module can execute at least one execution command.

In all of the foregoing claims, the rule modules is invoked *after* identification of the user.

In contrast to all of the foregoing claims, Bianco teaches a system for authenticating users and granting conditional access to resources. In Bianco, the user provides a user ID. The biometric group to which the user belongs is determined: the biometric policy of the biometric group controlling the authentication of the user. The user's registered biometric sample, associated with the user ID, is also determined. The user's biometric sample is compared with the registered sample. If the samples match according to the biometric policy, then the resources associated with the biometric group may be accessed by the user.

As argued in the Response to the Office Action dated May 22, 2002, there are several differences between the invention and the cited prior art. In the Interview Summary dated August 27, 2003, the Examiner indicated that some of these points were discussed. These points were, in the order mentioned by the Examiner, that identification as described in the claims "is distinct from the authorization and validation techniques of Bianco"; that the rule modules of the claims are user-customizable, whereas Bianco's rule modules are not user-

customizable; and that the rules in Bianco are applied pre-authentication, whereas the rule modules of the claims are applied post-identification. In other words, the Examiner agreed with the Applicant that there were at least three points on which the claims could be distinguished over Bianco.

In rejecting the claims in the Office Action dated November 4, 2003, the Examiner has included only one new reference: the published patent application of O'Flaherty. The Examiner cites to O'Flaherty only to find support in the prior art for users to be able to customize data in a database.

Although the Examiner has presented an argument that the prior art teaches user customizability, the Examiner has failed to present arguments that the prior art teaches biometric identification, or applying the rule modules after identification. As a result, the Examiner has failed to make a prima facie argument that the claims are obvious over the prior art.

In addition, the Examiner has not shown a motivation to combine the references. Whether or not the Examiner's analogy between rule modules of the claims and the biometric policies of Bianco is valid, it makes no sense to provide *users* the ability to modify the biometric policies in Bianco. As stated at column 2, lines 61-63, "the biometric policies determine the way or method in which a user is to be authenticated by the system." In other words, the biometric policies specify how the user gains access to resources on the system. If users could modify the biometric policies, they could weaken the security associated with resource access, even to the point of not requiring any security at all. Clearly, a system that allows the user to modify the security associated with accessing a resource is no more secure than a system without any access control at all. Since security and access control are important to Bianco, it would make the Bianco system inoperative for its intended purpose, and therefore would not be obvious to give users the ability to change the security of the system, as would happen if Bianco and O'Flaherty were combined as suggested by the Examiner.
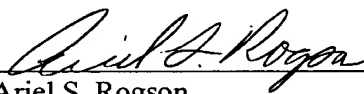
Even if the Examiner intended to analogize between the biometric groups (instead of the biometric policies) of Bianco with rule modules in the claims, the analogy still fails. As argued in the Response to the Office Action dated May 22, 2002, the biometric groups are used to determine which biometric policies to apply in authenticating the user, which means that the biometric groups are used *before* the user is authenticated, and not after the user is identified as claimed .

The Examiner also seems to be arguing in the Office Action dated November 4, 2003, that accessing the resource is analogous to the execution command of the rule modules in the claims. The Examiner points specifically to column 8, lines 19-21, and column 24, lines 53-56. But in the cited portions, Bianco only discusses access to resources, and does not tie that access to the biometric groups or biometric policies. Given that Bianco appears to make a clear distinction between resources and biometric groups or biometric policies, the Examiner appears to be changing mid-stream what he analogizes to the rule module of the claims. This creates confusion, and does not make clear exactly what in Bianco is considered to make obvious the claims.

For the foregoing reasons, reconsideration and allowance of claims 1-72 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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